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BOX AF
Docket 79909F-P
Customer No. 01333

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of

Dale F. McIntyre, et al

COMPUTER SOFTWARE PRODUCT
AND SYSTEM FOR ADVERTISING
BUSINESS AND SERVICES

Serial No. US 09/451,315

Filed 30 November 1999

Group Art Unit: 3622

Examiner: Jeffrey D. Carlson

I hereby certify that this correspondence is being deposited today with the United States Postal Service as first class mail in an envelope addressed to Commissioner for Patents, Before the Board of Patent Appeals and Interferences, Washington, D.C. 20231.

Deborah J. Walczak

October 8, 2003

Date

Commissioner for Patents
Box AF
Washington, D.C. 20231

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OFFICE OF PETITIONS

Sir:

PETITION TO THE COMMISSIONER FOR PATENTS UNDER 37 CFR 1.183 TO WAIVE
RULE 1.193

Applicants hereby petitions the Commissioner under Rule 37 CFR 1.183 to waive Rule 1.193 to permit entry of the attached Reply Brief.

A Reply Brief was due for filing on August 26, 2003. Applicants' attorney on the day in which the Reply Brief was due, prepared and put into the mail system at Eastman Kodak Company, the Reply Brief that was due. The Reply Brief was sent to the Mail Room at Eastman Kodak Company wherein the normal procedure is that the mail that is brought down to the Mail Room is sent out that same day. However, due to a situation wherein a new individual was responsible for the mail that day, in which that individual was not familiar with the normal procedure of same day mailing of anything in a blue pouch, and thus, inadvertently, unintentionally, did not send out the mail that was supposed to have been sent out the same day. Accordingly, the Reply Brief that was due on August 26, 2003 fail to be submitted to the US Postal authority.

As support for this, as can be seen by Exhibit A, a copy of the front page of the Reply Brief as placed in the mail on August 26, 2003, had a certificate of mailing executed by the undersign's legal assistant, stating that the document was deposited with the United States Postal Service. The typical procedure for placing mail to be sent out was followed in every respect by the Patent Legal Assistant and normally goes out in the mail that day. However, due to a non-normal event, an individual that is not typically involved in sending out the mail was responsible and was not aware that the mail that was placed in a particular blue pouch was to be sent out that day. Accordingly, the mail was inadvertently not sent out on the day it was due.

A Petition to the Commissioner (Exhibit B) to extend the time period for filing of the Reply Brief was filed on August 27, 2003 which resulted in the decision mailed on October 3, 2003, (Exhibit C). In view of this decision, this Petition was filed as suggested. Rule 1.183 states that "In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner". It is respectfully submitted that this is such a situation for the above reasons.

Accordingly, applicants respectfully requests the Commissioner to waive Rule 37 CFR 1.193 for filing of the Reply Brief within 30 days. A new reply brief with an executed certificate of mailing dated today (10-08-03) is being submitted herewith.

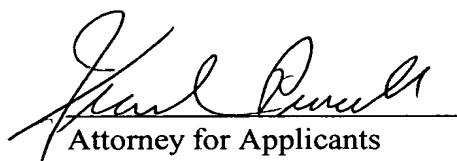
Please charge the \$130.00 fee and any other fees required by the filing of these papers to Eastman Kodak Company Deposit Account No. 05-0225. **A duplicate copy of this request is enclosed.**

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Respectfully submitted,

OCT 15 2003

OFFICE OF PETITIONS



Frank Pincelli
Attorney for Applicants
Registration No. 27,370

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Rochester, NY 14650
Telephone: (585)588-2728
Facsimile: (585) 477-4646

Exhibit A



Docket 79909F-P
Customer No. 01333

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of

Dale F. McIntyre, et al

COMPUTER SOFTWARE
PRODUCT AND SYSTEM FOR
ADVERTISING BUSINESS AND
SERVICES

Serial No. US 09/451,315

Filed 30 November 1999

Group Art Unit: 3622

Examiner: Jeffrey D. Carlson

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Deborah J. Walczak

Date

Commissioner for Patents
Box AF
Washington, D.C. 20231

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OFFICE OF PETITIONS

Sir:

APPELLANTS' REPLY BRIEF

With regard to the status of the claims, the Examiner is correct that claim 32 was cancelled and not presented for appeal.

The Examiner in the response, argues that applicants' claimed language is broader than applicants' arguments. Applicants respectfully submits that this is not correct. The Examiner takes the position that if the PC supplies the image, than it is supplied by the user. This is not correct. Images that are presented on any PC, especially when hooked up to an Internet, can be supplied by a number of different sources. For example, when an individual logs onto a web site, the images that may be present are supplied by the web site, not by the person visiting the web site. The fact that it is being displayed on the user's PC does not relate directly as to the source of the image. It is quite clear in the cited Small reference that the image being supplied are advertisements provided by the

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COMPUTER SOFTWARE
PRODUCT AND SYSTEM FOR
ADVERTISING BUSINESS AND
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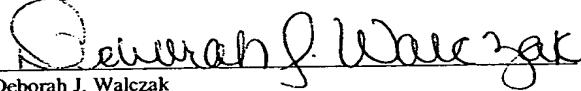
Serial No. US 09/451,315

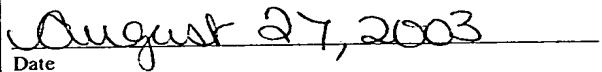
Filed 30 November 1999

Group Art Unit: 3622

Examiner: Jeffrey D. Carlson

I hereby certify that this correspondence is being deposited today with the United States Postal Service as first class mail in an envelope addressed to Commissioner for Patents, Before the Board of Patent Appeals and Interferences, Washington, D.C. 20231.


Deborah J. Walczak


August 27, 2003

Date

Commissioner for Patents
Box AF
Washington, D.C. 20231

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OCT 15 2003

OFFICE OF PETITIONS

Sir:

PETITION TO THE COMMISSIONER FOR PATENTS

Applicants hereby petitions the Commissioner to extend the time period for filing of the Reply Brief by one day in the subject application.

Applicants' attorney on the day in which the Reply Brief was due, prepared and put into the mail system at Eastman Kodak Company, the Reply Brief that was due. The Reply Brief was sent to the Mail Room at Eastman Kodak Company wherein the normal procedure is that the mail that is brought down to the Mail Room is sent out that same day. However, due to a situation wherein a new individual was responsible for the mail that day, that individual was not familiar with the normal procedure, and inadvertently unintentionally did not send out the mail that was supposed to have been sent out. Accordingly, the Reply

Brief that was due on August 26, 2003 fail to be submitted to the US Postal authority.

As support for this, as can be seen by Exhibit A a copy of the front page of the Reply Brief as placed in the mail yesterday had a certificate of mailing executed by the undersign's legal assistant, that the document was deposited with the United States Postal Service. The typical procedure for placing mail to be sent out was followed in every respect by the Patent Legal Assistant and normally goes out in the mail that day. However, due to a non-normal event, an individual that is not typically involved in sending out the mail was responsible and was not aware that the mail that was placed in a particular bin was to be sent out that day. Accordingly, the mail was inadvertently not sent out on the day it was due.

Accordingly, applicants respectfully requests the Commissioner to extend the time period for filing of the Reply Brief by one day. A new reply brief with an executed certificate of mailing dated today (8-27-03) is being submitted herewith.

Please charge any fees to Eastman Kodak Company Deposit Account No. 05-0225. A duplicate copy of this request is enclosed.

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Respectfully submitted,



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Exhibit C



UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

EASTMAN KODAK CO.

Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

PATENT LEGAL STAFF

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

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In re application of
Dale F. McIntyre, et al
Application No. 09/451,315
Filed: November 30, 1999
For: COMPUTER SOFTWARE PRODUCT
AND SYSTEM FOR ADVERTISING
BUSINESS AND SERVICES

: DECISION ON PETITION
: FOR EXTENSION OF
: TIME UNDER 37 CFR 1.136(b)

Entered by GLB

This is in response to the petition filed on August 29, 2003 for a one day extension of time under 37 CFR 1.136(b).

The petition is **DENIED**.

The requirements for granting a request for an extension of time under 37 CFR 1.136(b) are: (A) the provisions of 37 CFR 1.136(a) must not be available; (B) sufficient cause must be shown and a reasonable time to be extended specified; (C) the request must be filed on or before the day on which such a reply is due; and (D) must not attempt to extend a time period: (a) set in a Notice of Allowability, (b) to submit an oath or declaration in compliance with 37 CFR 1.63, (c) to submit formal drawings, or (d) to make a deposit of biological material. Furthermore, in no situation can any extension carry the date on which the reply is due beyond the maximum time period set by statute.

The petition lacks the requirements of item (C) above. A review of the file reveals that an Examiner's Answer was mailed on June 26, 2003. Therefore, the Reply Brief was due on August 26, 2003. Since the petition for extension of time was filed on August 29, 2003 (bearing a Certificate of Mailing of August 27, 2003), it was filed one day late. Therefore, the petition is untimely and will not be granted.

Petitioner may wish to consider filing a petition under 37 CFR 1.183 to waive the rule. Petitions filed under 37 CFR 1.183 must be accompanied by a petition fee of \$130.00.

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Inquiries related to this decision may be directed to Special Programs Examiner
Kenneth J. Dorner at (703) 308-0866

SUMMARY: Petition for extension of time under 37 CFR 1.136(b) is **DENIED**.


John J. Love, Director
Patent Technology Center 3600
(703) 308-1020

kjd:kjd 10/1/03